

IN SENATE OF THE UNITED STATES.

AUGUST 8, 1848.

Submitted, and ordered to be printed.

Mr. UNDERWOOD made the following

REPORT:

*The Committee of Claims, to whom was referred the bill (H. R. No. 42) for the relief of the legal representatives of Amelia Brereton, report:*

The committee cannot concur in the propriety of passing the bill from the House.

The committee are of opinion that there has been paid to Dr. John A. Brereton, in his lifetime, and to his widow, Amelia Brereton, since his death, all that the Doctor was justly entitled to receive.

The point upon which the whole case turns may be stated in a few words.

On the 10th of August, 1818, an order was issued by the War Department, giving to the "officers detailed to perform duties in the offices of the Chief Engineer, Quartermaster General, Adjutant General, Inspector General, and the Chief of the Ordnance Department, \$1 25 per diem, in addition to their usual pay and emoluments." On the 27th of July, 1819, the benefit of the above order was extended to officers detailed for duties in the Surgeon General's office.

On the 1st of July, 1821, Doctor Brereton was appointed an assistant surgeon in the United States army, and soon thereafter the Secretary of War directed that Doctor Brereton "be paid at the rate of \$240 per annum for attendance on the Indians who may be at the seat of government, and for duty performed in this (Surgeon General's) office; \$100 of which is to be charged to the Indian fund, and the balance to the medical fund." Under this special order, in reference to the extra compensation to be allowed Doctor Brereton, he performed service in the city of Washington up to the 10th January, 1825, when the Secretary of War made an order granting \$1 25 per diem, from the first of the year, to Doctor Brereton, in lieu of the allowance at the rate of \$240 per annum.

The claimant now insists that Doctor Brereton's representatives shall be paid at the rate of \$1 25 per day, from the date of his

appointment, instead of at the rate of \$240 per annum. There are other orders relating to the compensation of Doctor Brereton, made subsequent to that of the 10th January, 1825, and which changed, to some extent, the rate of his extra compensation; but these need not be particularly noticed; for, if justice requires no more, that what the Doctor was entitled to, under the special orders made in his particular case, then nothing is due. On the contrary, if he be entitled to \$1 25 per day as extra compensation from the date of his appointment, then the bill should be passed.

The committee are of opinion that the special orders made in behalf of Doctor Brereton, and not the general regulation of the 27th July, 1819, should govern. The department could not have been ignorant of that regulation; and the very fact that provision was made for Doctor Brereton, different from that of the regulations, proves that he was intended to be placed upon different ground than that covered by the regulation. Having been placed on other grounds, and having received all that was ever promised him, Doctor Brereton has no just claim, unless he can show that, at the commencement of his service, injustice was done him in not placing him under the general regulation of the 27th July, 1819. The only attempt to show that such injustice was done him, consists in evidence tending to prove that he was as meritorious as others. If that be conceded, still the committee, in this case, could not allow the claim. The practice of increasing the pay of officers at the discretion of the Executive departments, by making them extra allowances, ought not to be favored in the opinion of the committee. Such a practice is liable to great abuses, and may give rise to the exercise of unjust partialities. Indeed, that is the very essence of the complaint of Doctor Brereton's representatives. If the salaries of public officers are insufficient, they should apply to Congress for an increase of them, or resign, instead of asking extra allowances from the departments. But the committee are altogether averse to go back near thirty years and to inquire into the reasons which induced the department to place Doctor Brereton upon a different footing from other officers employed in Washington. It is enough that such a difference was made, and that the government has paid all that the Secretary of War, from time to time, thought proper to allow; and with that, the committee are of opinion, the representatives of Doctor Brereton should be content.

The committee therefore recommend that the bill be rejected.